

ESTTA Tracking number: **ESTTA706816**

Filing date: **11/05/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	A & V 2000 Inc
Granted to Date of previous extension	11/15/2015
Address	1700 Lionel Bertrand, suite 100 Boisbriand, QC J7H1N7 CANADA
Attorney information	Jeffrey C. Joyce Bohan Mathers, LLC PO Box 449 Portland, ME 04112-0449 UNITED STATES trademarks@bohanmathers.com Phone:207-773-3132

Applicant Information

Application No	86466453	Publication date	05/19/2015
Opposition Filing Date	11/05/2015	Opposition Period Ends	11/15/2015
Applicant	YM ENTERTAINMENT LLC 2711 Centerville Road, Suite 400 Wilmington, DE 19808 UNITED STATES		

Goods/Services Affected by Opposition


Class 030. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Allspice; Almond paste; Baking powder; Baking soda; Biscuits; Bread; Bread rolls; Breakfast cereals; Cake batter; Cake doughs; Cake frosting; Cake icing; Cake mixes; Cakes; Candy; Caramels; Cereal bars; Cereal-based snack foods; Cheeseburger sandwiches; Chewing gum; Chocolate; Chocolate mousse; Chocolate-based beverages; Chow chow; Cinnamon; Cocoa; Cocoa beverages with milk; Cocoa-based beverages; Coffee; Coffee beverages with milk; Coffee-based beverage containing milk; Confectionery chips for baking; Confectionery made of sugar; Confectionery, namely, pastilles; Cookies; Cooking salt; Crackers; Dessert mousse; Flavored and sweetened gelatins; Flavorings; Fondants; Frozen confectionery; Frozen yogurt; Granola; High-protein cereal bars; Honey; Ice cream; Iced tea; Ketchup; Macaroni; Macaroons; Mayonnaise; Muesli; Mustard; Natural sweetener; Non-medicated lozenges; Noodle-based prepared meals; Noodles; Pancake mixes; Pancakes; Pasta sauce; Pastries; Pies; Pizza; Popcorn; Pralines; Processed grains; Processed oats; Puddings; Quiche; Ravioli; Ready-to-eat cereals; Roasted corn; Rolled oats; Salad dressings; Sandwiches; Sauces; Sesame sticks; Sorbets; Spaghetti; Spices; Steel cut oats; Sugar; Sushi; Tabbouleh; Tarts; Tea; Tea-based beverages; Tomato sauce; Vanilla; Vanilla flavorings; Vermicelli; Vinegar; Waffles


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3097605	Application Date	01/13/2005
Registration Date	05/30/2006	Foreign Priority Date	NONE
Word Mark	YOGACTIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 0 First Use In Commerce: 0 Processed whole-grain cereals without preservatives containing beads of yogurt		

U.S. Registration No.	4017514	Application Date	01/21/2009
Registration Date	08/30/2011	Foreign Priority Date	11/04/2008
Word Mark	YOGACTIVE JUNIOR		

Design Mark	
Description of Mark	The mark consists of the words "YOGACTIVE JUNIOR" in stylized type having a child appearing through the "O" in "YOGACTIVE" holding a flower-shaped device.
Goods/Services	Class 030. First use: First Use: 0 First Use In Commerce: 0 Ready to eat, cereal derived food bars; Ready-to-eat cereals

Attachments	78547214#TMSN.png(bytes) 77653291#TMSN.png(bytes) Notice of Opposition.pdf(12218 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey C. Joyce/
Name	Jeffrey C. Joyce
Date	11/05/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 86466453
Published: May 19, 2015
For the mark: YM stylized with design

A & V 2000 Inc.,)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
YM ENTERTAINMENT LLC,)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, A & V 2000 Inc., a Canadian corporation having its principal place of business at 1700 Lionel Bertrand, suite 100, Boisbriand, Quebec J7H1N7, Canada (“Opposer”) believes that it will be damaged by registration of the mark shown in Application Serial No. 86466453 for goods in International Class 30 shown and identified in said application which was filed on November 27, 2014 by or on behalf of YM ENTERTAINMENT LLC, believed to be a Delaware limited liability company with a principal place of business at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808 (“Applicant”) and hereby opposes same.

As grounds of opposition, Opposer alleges that:

1. Opposer is the owner of U.S. Registration No. 3,097,605 (“the ‘605 Registration”) registered May 30, 2006, of the mark YOGACTIVE, stylized, for use on “Processed whole-grain cereals without preservatives containing beads of yogurt” in International Class 30 (“the ‘605 Goods”).

2. Opposer is the owner of U.S. Registration No. 4,017,514 (together with the '605 Registration, the "Registrations") registered August 30, 2011, of the mark YOGACTIVE JUNIOR, stylized with design (together with the '605 Mark, the "Opposer's Marks"), for use on "Ready to eat, cereal derived food bars; Ready-to-eat cereals" in International Class 30 (together with the '605 Goods, "Opposer's Goods").
3. The Registrations are subsisting and not abandoned: the '605 Registration is incontestable.
4. Opposer is using and has used Opposer's Marks in connection with Opposer's Goods in U.S. commerce.
5. Opposer has invested considerable time, money, and effort into the marketing, advertising, and promotion of Opposer's Marks in connection with the sale of Opposer's Goods.
6. As a consequence of Opposer's long and continuous use of, and its considerable investment in marketing, advertising, and promotion of Opposer's Marks in connection with Opposer's Goods, Opposer's Marks have become distinctive of the single source of Opposer's Goods and as such is an asset of great value.
7. As a consequence of Opposer's long and continuous use of, and its considerable investment in marketing, advertising, and promotion of Opposer's Marks in connection with Opposer's Goods, Opposer's Marks have accrued and have significant and valuable goodwill among consumers.
8. Applicant applied to register a stylized mark comprising a stylized Y and a stylized "M" depicting a heart, ("Applicant's Mark") on November 27, 2014, in Application Serial No. 86466453 (the "Application") for use on "Allspice; Almond paste; Baking powder; Baking soda; Biscuits; Bread; Bread rolls; Breakfast cereals; Cake batter; Cake doughs; Cake frosting; Cake icing; Cake mixes; Cakes; Candy; Caramels; Cereal bars; Cereal-based snack foods; Cheeseburger sandwiches; Chewing gum; Chocolate; Chocolate mousse; Chocolate-

based beverages; Chow chow; Cinnamon; Cocoa; Cocoa beverages with milk; Cocoa-based beverages; Coffee; Coffee beverages with milk; Coffee-based beverage containing milk; Confectionery chips for baking; Confectionery made of sugar; Confectionery, namely, pastilles; Cookies; Cooking salt; Crackers; Dessert mousse; Flavored and sweetened gelatins; Flavorings; Fondants; Frozen confectionery; Frozen yogurt; Granola; High-protein cereal bars; Honey; Ice cream; Iced tea; Ketchup; Macaroni; Macaroons; Mayonnaise; Muesli; Mustard; Natural sweetener; Non-medicated lozenges; Noodle-based prepared meals; Noodles; Pancake mixes; Pancakes; Pasta sauce; Pastries; Pies; Pizza; Popcorn; Pralines; Processed grains; Processed oats; Puddings; Quiche; Ravioli; Ready-to-eat cereals; Roasted corn; Rolled oats; Salad dressings; Sandwiches; Sauces; Sesame sticks; Sorbets; Spaghetti; Spices; Steel cut oats; Sugar; Sushi; Tabbouleh; Tarts; Tea; Tea-based beverages; Tomato sauce; Vanilla; Vanilla flavorings; Vermicelli; Vinegar; Waffles” in International Class 32, respectively (“Applicant’s Goods”).

9. Applicant’s Mark is confusingly similar to Opposer’s Mark.
10. Applicant’s Goods are identical in part and in total closely related to Opposer’s Goods.
11. Applicant’s Goods are or will be sold in the same channels of trade as are Opposer’s Goods.
12. Consumers of Applicant’s Goods are the same class of consumers as the consumers of Opposer’s Goods.
13. Applicant’s Mark is so similar to Opposer’s Marks as to cause consumer confusion, mistake, and deceit within the meaning of Section 2(d) of the Act (15 U.S.C. § 1052(d)).
14. Opposer will be damaged by registration of Applicant’s applied-for mark in connection with Applicant’s Goods because such registration will afford Applicant the impression that Applicant has exclusive rights in Applicant’s Mark and the color of authority to use its confusingly similar mark in commerce in connection with Applicant’s Goods.

15. Opposer will be damaged by Applicant's use of its applied-for mark in connection with Applicant's Goods because such use is likely to give to consumers the false impression that Opposer is the source of Applicant's Goods.
16. Opposer will be damaged by Applicant's use of its applied-for mark in connection with Applicant's Goods because such use is likely to give to consumers the false impression of an affiliation or other connection between Applicant and Opposer and/or the false impression of Opposer's sponsorship and endorsement of Applicant's Goods.
17. Opposer will be damaged by Applicant's use of Applicant's Mark in commerce on Applicant's Goods because such use is likely to cause confusion, mistake, and deceit as to the source of Applicant's Goods.

Wherefore, Opposer respectfully requests that this opposition be sustained and that registration of Applicant's Mark be denied and that the opposed Applications ordered abandoned with prejudice.

Schlotterbeck & Foss Company

By: /Jeffrey Joyce/
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Date: 05 November 2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 86466453

Published: May 19, 2015

For the mark: YM stylized with design

A & V 2000 Inc.,

Opposer,

v.

YM ENTERTAINMENT LLC,

Applicant.

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Opposition No. _____

Notice of Service

This is to certify that the undersigned caused a true and correct copy of this Notice of Opposition to be mailed by First Class Mail, postage prepaid, and directed to Tamara F. Carmichael, Attorney of Record for Applicant, Loeb & Loeb LLP, 345 Park Ave FL 18, New York, New York 10154-1895, on November 5, 2015.

/Jeffrey C. Joyce/
Jeffrey C. Joyce, Esq.